

SENATE BILL NO. 16

INTRODUCED BY MANGAN, GLASER

BY REQUEST OF THE EDUCATION AND LOCAL GOVERNMENT INTERIM COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS RELATED TO SCHOOL BOUNDARY TRANSFERS; ESTABLISHING CRITERIA, A STANDARD OF PROOF, AND PROCEDURES FOR TERRITORY TRANSFER HEARINGS; AUTHORIZING AN APPEAL OF THE COUNTY SUPERINTENDENT'S DECISION TO THE DISTRICT COURT; AMENDING SECTIONS 20-3-205, 20-6-214, 20-6-215, 20-6-308, AND 20-6-322, MCA; REPEALING SECTIONS 20-6-213, 20-6-309, AND 20-6-320, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Transfer of territory from one district to another -- hearing on effects of proposed transfer -- burden of proof -- standard of proof -- appeal to district court. (1) Except as provided in 20-6-214, 20-6-215, 20-6-308, and 20-6-322, a petition to transfer territory from one school district to another may be presented to the county superintendent if:

(a) the petition is signed by 60% of the registered electors qualified to vote at general elections in the territory proposed for transfer;

(b) the territory to be transferred is contiguous to the district to which it is to be attached, includes taxable property, and has school-age children living in it;

(c) the territory to be transferred is not located within 3 miles, over the shortest practicable route, of an operating school in the district from which it is to be transferred; and

(d) the board of trustees of the school district that would receive the territory has approved the proposed transfer by a resolution adopted by a majority of the members of the board of trustees at a meeting for which proper notice was given.

(2) On or after [the effective date of this act], once a petition to transfer territory has been filed, an additional petition to transfer that territory may not be filed for 4 years.

(3) The petition for a transfer of territory must be delivered to the county superintendent and must:

(a) provide a legal description of the territory that is requested to be transferred and a description of the

1 district to which the territory is to be transferred;

2 (b) state the reasons why the transfer is requested; and

3 (c) state the number of school-age children residing in the territory.

4 (4) If both the trustees of the receiving and transferring school districts have approved the proposed
5 territory transfer in writing, the county superintendent shall grant the transfer.

6 (5) For any petition that meets the criteria specified in subsection (1) and contains the information
7 required by subsection (3) but that has not been approved in writing by the board of trustees of the school district
8 that would transfer the territory, the county superintendent shall:

9 (a) not more than 40 days after receipt of the petition, set a place, date, and time for a hearing to
10 consider the petition; and

11 (b) give notice of the place, date, and time of the hearing. The notice must be posted in the districts
12 affected by the petition for the transfer of territory in the manner prescribed in this title for notices for school
13 elections, with at least one notice posted in the territory to be transferred. Notice must also be delivered to the
14 board of trustees of the school district from which the territory is to be transferred.

15 (6) The county superintendent shall conduct a hearing as scheduled, and any resident, taxpayer, or
16 representative of the receiving or transferring district must, upon request, be heard. At the hearing, the
17 petitioners have the initial burden of presenting evidence on the proposed transfer's effect on:

18 (a) the educational opportunity for the students in the receiving and transferring districts, including but
19 not limited to:

20 (i) class size;

21 (ii) ability to maintain demographic diversity;

22 (iii) local control;

23 (iv) parental involvement; and

24 (v) the capability of the receiving district to provide educational services;

25 (b) student transportation, including but not limited to:

26 (i) safety;

27 (ii) cost; and

28 (iii) travel time of students;

29 (c) the economic viability of the proposed new districts, including but not limited to:

30 (i) the existence of a significant burden on the taxpayers of the district from which the territory will be

1 transferred;

2 (ii) the significance of any loss in state funding for the students in both the receiving and transferring
3 districts;

4 (iii) the viability of the future bonding capacity of the receiving and transferring districts, including but not
5 limited to the ability of the receiving district and the transferring district to meet minimum bonding requirements;

6 (iv) the ability of the receiving district and the transferring district to maintain sufficient reserves; and

7 (v) the cumulative effect of other transfers of territory out of the district in the previous ~~4~~ 8 years on the
8 taxable value of the district from which the territory is to be transferred. IN CASES WHERE THE CUMULATIVE EFFECT
9 OF OTHER TRANSFERS OF TERRITORY OUT OF THE DISTRICT IN THE PREVIOUS 8 YEARS IS EQUAL TO OR GREATER THAN
10 25% OF THE DISTRICT'S TAXABLE VALUE, THE FOLLOWING ADDITIONAL FACTORS MUST BE CONSIDERED AND WEIGHED IN
11 THE DECISION:

12 (A) THE DISTRICT'S RATE OF PASSAGE OF DISCRETIONAL LEVIES PLACED BEFORE THE VOTERS OVER THE
13 PREVIOUS 8 YEARS;

14 (B) THE DISTRICT'S REDUCTION OR ELIMINATION OF INSTRUCTIONAL STAFF OR PROGRAMS OVER THE PREVIOUS
15 8 YEARS; AND

16 (C) ANY INCREASE IN DISTRICT TAXES OVER THE PREVIOUS 8 YEARS AND THE LIKELY INCREASE IN DISTRICT
17 TAXES IF THE TRANSFER IS GRANTED.

18 (7) After receiving evidence from both the proponents and opponents of the proposed territory transfer
19 on the effects described in subsection (6), the county superintendent shall, within 30 days after the hearing, issue
20 findings of fact, conclusions of law, and an order.

21 (8) If, based on a preponderance of the evidence, the county superintendent determines that the
22 evidence on the effects described in subsection (6) supports a conclusion that a transfer of the territory is in the
23 best and collective interest of students in the receiving and transferring districts and does not negatively impact
24 the ability of the districts to serve those students, the county superintendent shall grant the transfer. If the county
25 superintendent determines that, based on a preponderance of the evidence presented at the hearing, a transfer
26 of the territory is not in the best and collective interest of students in the receiving and transferring districts and
27 will negatively impact the ability of the districts to serve those students, the county superintendent shall deny the
28 territory transfer.

29 (9) The decision of the county superintendent is final 30 days after the date of the decision unless it is
30 appealed to the district court by a resident, taxpayer, or representative of either district affected by the petitioned

1 territory transfer. The county superintendent's decision must be upheld unless the court finds that the county
2 superintendent's decision constituted an abuse of discretion under this section.

3 (10) Whenever a petition to transfer territory from one district to another district creates a joint district
4 or affects the boundary of an existing joint district, the petition to transfer territory must be delivered to the county
5 superintendent of the county in which the territory proposed to be transferred is located. The county
6 superintendent shall notify any other county superintendents of counties with districts affected by the petition,
7 and the duties prescribed in this section for the county superintendent must be performed jointly. If the number
8 of county superintendents involved is an even number, the county superintendents shall jointly appoint an
9 additional county superintendent from an unaffected county to join them in conducting the hearing required in
10 subsection (6) and in issuing the decision required in subsection (8). The decision issued under subsection (8)
11 must be made by a majority of the county superintendents.

12 (11) A petition seeking to transfer territory out of or into a K-12 district must propose the transfer of
13 territory for both elementary and high school purposes. In the case of a proposed transfer out of or into a K-12
14 district, a petition that fails to propose the transfer of territory for both elementary and high school purposes is
15 invalid for the purposes of this section.

16

17 **Section 2.** Section 20-3-205, MCA, is amended to read:

18 **"20-3-205. Powers and duties.** The county superintendent has general supervision of the schools of
19 the county within the limitations prescribed by this title and shall perform the following duties or acts:

20 (1) determine, establish, and reestablish trustee nominating districts in accordance with the provisions
21 of 20-3-352, 20-3-353, and 20-3-354;

22 (2) administer and file the oaths of members of the boards of trustees of the districts in the county in
23 accordance with the provisions of 20-3-307;

24 (3) register the teacher or specialist certificates or emergency authorization of employment of any
25 person employed in the county as a teacher, specialist, principal, or district superintendent in accordance with
26 the provisions of 20-4-202;

27 (4) act on each tuition and transportation obligation submitted in accordance with the provisions of
28 20-5-323 and 20-5-324;

29 (5) file a copy of the audit report for a district in accordance with the provisions of 20-9-203;

30 (6) classify districts in accordance with the provisions of 20-6-201 and 20-6-301;

- 1 (7) keep a transcript ~~and reconcile~~ of the district boundaries of the county ~~in accordance with the~~
2 ~~provisions of 20-6-103;~~
- 3 (8) fulfill all responsibilities assigned under the provisions of this title regulating the organization,
4 alteration, or abandonment of districts;
- 5 (9) act on any unification proposition and, if approved, establish additional trustee nominating districts
6 in accordance with 20-6-312 and 20-6-313;
- 7 (10) estimate the average number belonging (ANB) of an opening school in accordance with the
8 provisions of 20-6-502, 20-6-503, 20-6-504, or 20-6-506;
- 9 (11) process and, when required, act on school isolation applications in accordance with the provisions
10 of 20-9-302;
- 11 (12) complete the budgets, compute the budgeted revenue and tax levies, file final budgets and budget
12 amendments, and fulfill other responsibilities assigned under the provisions of this title regulating school
13 budgeting systems;
- 14 (13) submit an annual financial report to the superintendent of public instruction in accordance with the
15 provisions of 20-9-211;
- 16 (14) monthly, unless otherwise provided by law, order the county treasurer to apportion state money,
17 county school money, and any other school money subject to apportionment in accordance with the provisions
18 of 20-9-212, 20-9-347, 20-10-145, or 20-10-146;
- 19 (15) act on any request to transfer average number belonging (ANB) in accordance with the provisions
20 of 20-9-313(3);
- 21 (16) calculate the estimated budgeted general fund sources of revenue in accordance with the general
22 fund revenue provisions of the general fund part of this title;
- 23 (17) compute the revenue and compute the district and county levy requirements for each fund included
24 in each district's final budget and report the computations to the board of county commissioners in accordance
25 with the provisions of the general fund, transportation, bonds, and other school funds parts of this title;
- 26 (18) file and forward bus driver certifications, transportation contracts, and state transportation
27 reimbursement claims in accordance with the provisions of 20-10-103, 20-10-143, or 20-10-145;
- 28 (19) for districts that do not employ a district superintendent or principal, recommend library book and
29 textbook selections in accordance with the provisions of 20-7-204 or 20-7-602;
- 30 (20) notify the superintendent of public instruction of a textbook dealer's activities when required under

1 the provisions of 20-7-605 and otherwise comply with the textbook dealer provisions of this title;

2 (21) act on district requests to allocate federal money for indigent children for school food services in
3 accordance with the provisions of 20-10-205;

4 (22) perform any other duty prescribed from time to time by this title, any other act of the legislature, the
5 policies of the board of public education, the policies of the board of regents relating to community college
6 districts, or the rules of the superintendent of public instruction;

7 (23) administer the oath of office to trustees without the receipt of pay for administering the oath;

8 (24) keep a record of official acts, preserve all reports submitted to the superintendent under the
9 provisions of this title, preserve all books and instructional equipment or supplies, keep all documents applicable
10 to the administration of the office, and surrender all records, books, supplies, and equipment to the next
11 superintendent;

12 (25) within 90 days after the close of the school fiscal year, publish an annual report in the county
13 newspaper stating the following financial information for the school fiscal year just ended for each district of the
14 county:

15 (a) the total of the cash balances of all funds maintained by the district at the beginning of the year;

16 (b) the total receipts that were realized in each fund maintained by the district;

17 (c) the total expenditures that were made from each fund maintained by the district; and

18 (d) the total of the cash balances of all funds maintained by the district at the end of the school fiscal
19 year; and

20 (26) hold meetings for the members of the trustees from time to time at which matters for the good of
21 the districts must be discussed."

22

23 **Section 3.** Section 20-6-214, MCA, is amended to read:

24 **"20-6-214. Boundary adjustments in elementary school districts.** The trustees of an elementary
25 school district may, by resolution, request a change in the boundaries between their district and an adjacent
26 district. If the trustees request a transfer by resolution, the territory proposed for transfer must conform to the
27 provisions of [section 1(1) and (2)] and the resolution must include information outlined in [section 1(3)]. The
28 resolution ~~shall~~ must be addressed to the county superintendent of schools who, upon receiving ~~such a~~ the
29 resolution, shall proceed to a hearing as set forth in ~~20-6-213~~ [section 1(6)]."

30

1 **Section 4.** Section 20-6-215, MCA, is amended to read:

2 "**20-6-215. Review of boundaries by county superintendent.** A county superintendent of schools
3 shall, at least once every 3 years, review the existing elementary school district boundaries in the county. ~~This~~
4 The review and any recommended boundary changes must include information that the territory proposed for
5 transfer complies with the provisions of [section 1(1) through (3)] and shall must be presented by the
6 superintendent at a hearing conducted under ~~20-6-213~~ [section 1(6)]. If the superintendent orders a boundary
7 change after the hearing, ~~he~~ the superintendent shall forward copies of ~~his~~ the review and the testimony at the
8 hearing to the board of county commissioners and the state superintendent of public instruction."

9

10 **Section 5.** Section 20-6-308, MCA, is amended to read:

11 "**20-6-308. ~~Limitations for organization~~ Organization of joint high school district.** The boundaries
12 of ~~any a~~ high school district ~~which that~~ encompass a county's portion of a joint elementary district where an
13 elementary school is operated may be changed to establish a joint high school district. ~~Such~~ The high school
14 district boundary change ~~shall~~ must be a transfer of all the territory located in another county's portion of the
15 same joint elementary district and must be made pursuant to the procedures provided in [section 1]. ~~No such~~
16 ~~boundary change shall be made when:~~

17 ~~—— (1) the territory transfer would reduce the taxable value of the taxable property of another high school~~
18 ~~district to less than \$1 million; or~~

19 ~~—— (2) a portion of the territory to be transferred is less than 3 miles from an operating accredited high~~
20 ~~school located in another high school district."~~

21

22 **Section 6.** Section 20-6-322, MCA, is amended to read:

23 "**20-6-322. Boundary adjustments in high school districts.** The trustees of a high school district may,
24 by resolution, request a change in the boundaries between their district and an adjacent district. If the trustees
25 request a transfer by resolution, the territory proposed for transfer must conform to the provisions of [section 1(1)
26 and (2)] and the resolution must include information outlined in [section 1(3)]. The resolution must be addressed
27 to the county superintendent of schools who, upon receiving a the resolution, shall proceed to a hearing as
28 provided in ~~20-6-320~~ [section 1(6)]."

29

30 NEW SECTION. **Section 7. Repealer.** Sections 20-6-213, 20-6-309, and 20-6-320, MCA, are repealed.

